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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/042,644	01/08/2002	Jacques F. Banchereau	AGT.10006NP	7691

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EXAMINER
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CHANDRA, GYAN

ART UNIT	PAPER NUMBER
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1646

DATE MAILED: 12/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/042,644	BANCHEREAU ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Gyan Chandra	1646	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 September 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-52,69-77,80-92 and 94-96 is/are pending in the application.
- 4a) Of the above claim(s) 1-52,69-77 and 82-84 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 80,81,85-92 and 94-96 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>9/25/2006; 11/24/2006</u> | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### **Status of Application, Amendments, And/Or Claims**

The Amendment filed 09/21/2006 in response to the Office Action of 5/16/2006 is acknowledged and has been entered.

The addition of new claims 94-96 has been made of record.

Claims 53-68, 78-79 and 93 are canceled.

Claims 1-52, 69-77, 80-92 and 94-96 are pending.

Claims 1-52, 69-77 and 82-84 remain withdrawn.

Claims 80-81, 85-92 and 94-96 are examined on the merit to the extent that they read on the elected species psoriasis, and an antibody as the interferon antagonist. The text of those sections of Title 35, U.S. Code, not included in this action can be found in a prior office action.

### ***Response to Arguments***

#### ***Claim Objections***

The objection of claim 81 is withdrawn in view of Applicant's arguments

#### ***Claim Rejections - 35 USC § 102***

Claims 80-81, and 85-92 remain rejected for the reasons of record in the previous Office Action mailed on 5/16/2006 and new claims 94-96 are rejected under 35 U.S.C. 102(b) as being anticipated by Skurkovich et al (US Patent No. 5,888,511).

The claims are drawn to a method of treating an autoimmune disease in a subject comprising administering a composition consisting essentially of one or more antibodies consisting essentially of one or more anti-IFN alpha antibodies or antigen-

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binding fragments thereof, wherein (i) the autoimmune disease is psoriasis, (ii) said autoimmune disease is not rheumatoid arthritis, AIDS or diabetes, and wherein one or more antibodies comprise monoclonal antibodies, chimeric antibodies, anti-idiotypic antibodies, humanized antibodies or primatized antibodies or any combination thereof.

Applicant argues (Response, page 11) that Skurkovich et al. do not anticipate claim 80 (or claims 81-92 and 94-96 depending therefrom) because "the reference does not teach treating an autoimmune disease that is not rheumatoid arthritis and that is not AIDS as recited in claim 80 with a composition consisting essentially of one or more anti-IFN- $\alpha$  antibodies or antigen-binding fragments thereof.

This argument has been considered but is not persuasive because Skurkovich et al clearly teaches the treatment of autoimmune diseases other than rheumatoid arthritis, AIDS, or diabetes. For example, the reference teaches (see claims 1-2 of the reference) the treatment of psoriasis with a composition comprising anti-IFN- $\alpha$  antibodies.

Applicant's further argue (Remarks pg.12) that Skurkovich et al. do not disclose effective treatment methods using antibodies (or antigen binding fragment thereof) against a single cytokine such as IFN- $\alpha$  for the instantly claimed autoimmune diseases. These arguments have been carefully considered but are not persuasive because applicants have not pointed out any differences between applicant's claimed invention and the prior art.

### ***Conclusion***

No claim is allowed.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gyan Chandra whose telephone number is (571) 272-2922. The examiner can normally be reached on 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Nickol can be reached on (571) 272-0835. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

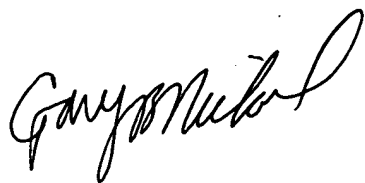
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Gyan Chandra, Ph.D.

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01 December 2006

Fax: 571-273-2922



GARY B. NICKOL, PH.D.  
SUPERVISORY PATENT EXAMINER  
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